

Remarks

Claims 1, 7, 10, and 17 were previously amended. Claims 2, 5-6, 8-9 and 19 were previously cancelled. Claims 1, 7, 11, 16, and 17 are presently amended. Claims 10, 13, 14, and 15 are cancelled. Claims 1, 3, 4, 7, 11, 12, 16-18 and 20 are pending in this application. The Examiner has rejected claims 1, 4 and 6 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2003/0046464 to Murty, et al. (hereinafter “Murty”) in view of U.S. Patent No. 4,370,720 to Hyatt (hereinafter “Hyatt”), and further in view of U.S. Patent No. 7,099,978 to Duncan, et al. (hereinafter “Duncan”). Applicant respectfully traverses the Examiner’s rejections.

The Examiner has rejected Claim 3 as being unpatentable over Murty in view of Hyatt, further in view of Duncan, and further in view of U.S. Patent No. 5,809,314 to Carmean (hereinafter “Carmean”).

The Examiner has rejected claims 7, 8, 10-14, 17 and 20 under 35 U.S.C. § 103(a) as being unpatentable over Murty in view of Hyatt, further in view of Duncan and further in view of U.S. Patent No. 6,857,084 to Giles (hereinafter “Giles”).

The Examiner has rejected claims 16 and 18 under 35 U.S.C. § 103(a) as being unpatentable over Murty/Hyatt/Duncan in view of Giles, and in further view of Carmean.

A. Allowable Subject Matter

In the Office Action, the Examiner noted that claim 15 is allowable subject matter if rewritten in independent form. (Office Action, page 11.) Applicant gratefully acknowledges the Examiner’s indication that claim 15 is allowable over the art of record. Applicant has amended independent claim 7 to include all of the intervening limitations for claim 15, and has cancelled claims 10, 13, 14 and 15 in the process. No new matter is presented by the claim

limitations. Because amended independent claim 7 is rewritten to include all of the intervening limitations of previously allowable dependent claim 15, Applicant respectfully requests that amended independent claim 7 pass to issuance.

B. Remarks Regarding Rejection of Claims 1, 3, and 4 Under 35 U.S.C. § 103
(a)

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

The combination of Murty in view of Hyatt and Duncan fails to teach or suggest all the claim limitations of amended independent claim 1. Specifically, the combination fails to teach or suggest “wherein the predetermined time delay is associated with a time sufficient to permit a processor to exit from an interrupt mode without contention for a processor bus or memory in the computer system.” This limitation was previously included in dependent claim 15 and the Examiner has identified dependent claim 15 as allowable over the art of record, including Duncan. As amended independent claim 1 includes the limitation for previously allowed claim 15, Applicant respectfully requests that this claim pass to issuance.

As Murty in view of Hyatt and Duncan fails to teach or suggest each and every element of independent claim 1, Murty in view of Hyatt and Duncan does not render this claim obvious. Applicant respectfully submits that this independent claim is allowable. Additionally, Applicant submits that dependent claims 3 and 4 are allowable, as they depend from otherwise allowable base claims.

C. Remarks Regarding Rejection of Claims 7, 8, 10-14, 17, 19, and 20 Under 35 U.S.C. § 103 (a)

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

The combination of Murty in view of Hyatt and Duncan further in view of Giles fails to teach or suggest all the claim limitations of amended independent claims 7 and 17. Amended independent claim 7 is allowable for the reasons as discussed above, as it includes all intervening limitations and the limitation for previously allowable dependent claim 15.

Amended independent claim 17 also includes a similar limitation as that for amended independent claim 7. Specifically, the combination fails to teach or suggest “wherein the initiating step comprises pausing for a time period between the serial exit of the non-interrupt handling processor from interrupt mode, wherein the time period is a predetermined time period associated with a time sufficient to permit a processor to exit from an interrupt mode without contention for the processor bus or memory in the computer system.” A similar limitation was previously included in dependent claim 15 and the Examiner has identified dependent claim 15 as allowable over the art of record, including Duncan and Giles. As amended independent claim 17 includes the limitation for previously allowed claim 15, the Applicant respectfully requests that this claim pass to issuance.

With respect to claims 11, 12, and 17, Giles fails to disclose “determining whether each non-interrupt handling processor was in a halt state immediately before entering

the mode.” Giles discusses that processors are placed in a debug mode “without an excessive time delay to preserve the states of the processors for multiprocessor debug by **halting all of the processors at approximately the same time.**” Giles at 2:32-35. Giles teaches placing every processor in the halt state regardless of the prior state. This is not the same as determining if a “non-interrupt handling processor was in a halt state immediately before entering the mode” as required by these claims.

As Murty in view of Hyatt and Duncan further in view of Giles fails to teach or suggest each and every element of independent claims 7 and 17, Murty in view of Hyatt and Duncan does not render these claims obvious. Applicant respectfully submits that these independent claims are allowable. Additionally, Applicant submits that dependent claims 11, 12, 16, 18 and 20 are allowable, as they depend from otherwise allowable base claims.

D. No Waiver

All of Applicant’s arguments and amendments are without prejudice or disclaimer. Additionally, Applicant has merely discussed example distinctions from the cited references. Other distinctions may exist, and Applicant reserves the right to discuss these additional distinctions in a later Response or on Appeal, if appropriate. By not responding to additional statements made by examiner, Applicant does not acquiesce to examiner’s additional statements, such as, for example, any statements relating to what would be obvious to a person of ordinary skill in the art. The example distinctions discussed by Applicant are sufficient to overcome the anticipation rejections. The current amendments to the claims are sufficient to overcome the obviousness rejections.

Conclusion

Applicant respectfully submits that the pending claims 1, 3, 4, 7, 11, 12, 16-18 and 20 of the present invention, as amended, are allowable. Applicant respectfully requests that the rejection of the pending claims be withdrawn and that these claims be passed to issuance.

Respectfully submitted,

/Tammy Pennington/
Tammy M. Pennington
Registration No. 61,223

Baker Botts L.L.P.
910 Louisiana
One Shell Plaza
Houston, Texas 77002-4995
(713) 229-1972
tammy.pennington@bakerbotts.com

Baker Botts Docket Number: 016295.1472

Date: September 10, 2009